

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION**

IN THE MATTER OF:)	COMPLAINT NO. 2001-307
)	FOR
7-ELEVEN, INC.)	ADMINISTRATIVE CIVIL LIABILITY
LOCATION NO. 22894)	
NONCOMPLIANCE WITH)	
ORDER NO. 96-41)	OCTOBER 12, 2001
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7-ELEVEN, INC. IS HEREBY GIVEN NOTICE THAT:

1. 7-Eleven Inc. is alleged to have violated provisions of law for which the California Regional Water Quality Control Board, San Diego Region (SDRWQCB) may impose civil liability pursuant to the Porter-Cologne Water Quality Control Act, California Water Code (CWC), Section 13385 et seq.
2. A public hearing on this matter is scheduled before the SDRWQCB meeting on October 24, 2001, at the San Diego Regional Quality Control Board Office, 9174 Sky Park Court, San Diego. The meeting will begin at 9:00 am. At the hearing, 7-Eleven, Inc. will have the opportunity to be heard and to contest the allegations in this Complaint and the imposition of civil liability by the SDRWQCB. Additional notice of this public hearing and the hearing procedures will be provided to 7-Eleven, Inc. prior to the hearing date with the agenda for the SDRWQCB meeting on that date.
2. At the hearing, the SDRWQCB will determine the validity of the allegations contained herein and, if the allegations are found to be true, will consider whether to assess civil liability in the amount proposed by this Complaint, or in some other amount.

ALLEGATIONS

3. During the period from September 2000 through January 2001, 7-Eleven, Inc. violated Order No. 96-41, Discharge Specifications to Inland Surface Waters, five times. Effluent limit exceedances of benzene, xylene, phosphorus, pH and hydrogen sulfide were noted in the Discharger Self-Monitoring Reports.

BACKGROUND

4. The following facts are the basis for the alleged violations in this matter:

7-Eleven, Inc. is approved to discharge effluent water from its treatment project to a storm drain under the provisions of Order No. 96-41. The following are the discharge limitations violated by 7-Eleven, Inc. during the period in question:

- The instantaneous maximum effluent limit for benzene is 5 µg/L.
- The instantaneous maximum effluent limit for xylene is 5 µg/L.
- The instantaneous maximum effluent limit for phosphorus is 0.2 mg/L.
- The allowable pH range is 6.5 to 8.5.
- The instantaneous maximum effluent limit for hydrogen sulfide is 10 µg/L.

The violations are shown in the following table:

Sample Date	Pollutant	Permitted Limit	Reported Value	Chronic/ Serious
09/13/00	benzene	5 µg/L	15 µg/L	Serious
09/13/00	xylene	5 µg/L	8.3 µg/L	Serious
10/09/00	pH	6.5-8.5	8.6	Chronic
10/09/00	phosphorus	0.2 mg/L	1.0 mg/L	Serious
10/09/00	H ₂ S	10 µg/L	40 µg/L	Serious

5. Under California Water Code Section 13385(c), the maximum administrative civil liability which could be imposed by the Regional Board for the violations described in the Findings of this Complaint is ten thousand dollars (\$10,000) for each day in which a violation occurs. For this Complaint which includes five violations, the maximum administrative civil liability which could be imposed by the Regional board is one hundred forty thousand dollars (\$50,000).

$$\text{MAXIMUM ACL} = 5 \text{ VIOLATIONS} \times \$10,000 = \$50,000$$

6. These violations of Order No. 96-41 are also subject to mandatory minimum penalties under California Water Code Section 13385(i). Under California Water Code Section 13385(h) and (i), the amount of the mandatory minimum penalty that must be assessed is \$12,000, as determined by the following statutes:
- a. Water Code Section 13385(h)(1) requires the Regional Board to assess a mandatory penalty of three thousand dollars (\$3,000) for the first serious violation in any six-month period, or, in lieu of the penalty, require the discharger to spend an equal amount for a supplemental environmental project, or to develop a pollution prevention plan.

- b. Water Code Section 13385(i)(1) requires the Regional Board to assess a mandatory penalty of three thousand dollars (\$3,000) for each violation, not counting the first violation, if the discharger commits two or more serious violations in any six-month period.
- c. Water Code Section 13385(i)(2) requires the Regional Board to assess a mandatory penalty of three thousand dollars (\$3,000) for each violation, not counting the first three violations, if the discharger does any of the following four or more times in any six-month period:
 - Exceeds a waste discharge requirement effluent limitation.
 - Fails to file a report pursuant to Water Code Section 13260.
 - Files an incomplete report pursuant to Water Code Section 13260.
 - Exceeds a toxicity discharge limitation where the waste discharge requirements do not contain pollutant-specific effluent limitations for toxic pollutants.

Because two of the first three violations in the period under consideration are classified as serious rather than chronic, they incur penalties according to Water Code Sections 13385(h) and (i); thus each violation but the pH exceedance is assessed \$3,000, giving a total mandatory minimum penalty of \$12,000.

PROPOSED CIVIL LIABILITY

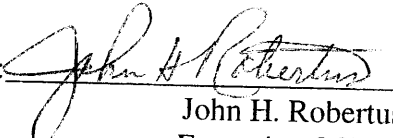
7. Based on consideration of the factors listed in Section 13385(e) of the California Water Code, civil liability should be imposed on 7-Eleven, Inc. by the SDRWQCB in the amount of \$12,000, the amount of the mandatory minimum penalty, for the above violations.

WAIVER OF HEARING

8. 7-Eleven, Inc. may waive its right to a hearing. Waiver of the hearing constitutes admission of the validity of the allegation of violations in this Complaint and acceptance of the assessment of civil liability in the amount of \$12,000 as set forth in paragraph 7. If 7-Eleven, Inc. wishes to waive the hearing, an authorized agent must check, sign, and return the waiver form attached to this Complaint, together with a cashier's check for the amount of the civil liability proposed in paragraph 7. The cashier's check must be made payable to the State Water Resources Control Board and mailed to the California Regional Water Quality Control Board, San Diego Region, 9174 Sky Park Court, Suite 100, San Diego, Ca, 92123. If a hearing is held, comments from 7-Eleven, Inc. and interested parties may be considered by the SDRWQB in determining the amount of civil liability to assess. Following the hearing, the SDRWQCB may impose an amount of civil liability other than that proposed in this Complaint or revoke the

Complaint and refer the matter to the Attorney General for judicial assessment of civil liability (with higher maximum liabilities for each violation). Please direct questions about this matter to Tanya Bilezikjian at (858) 467-4285.

Dated this 12th day of October 2001

By: 
John H. Robertus
Executive Officer